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In re Application of van Scharrenburg et al	:	
U.S. Application No.: 09/555,139	:	DECISION ON RENEWED
Int. Application No.: PCT/EP98/07553	:	
Int. Filing Date: 24 November 1998	:	REQUEST FOR STATUS
Priority Date: 25 November 1997	:	
Attorney Docket No.: 01975.0024	:	UNDER 37 CFR 1.42
For: VACCINES WITH AN LTb ADJUVANT	:	

This is in response to applicants' "Renewed Request for Status Under 37 C.F.R. 1.42" filed 13 December 2000.

BACKGROUND

On 24 November 1998, applicants filed international application PCT/EP98/07553, which claimed priority of an earlier European Patent Office application filed 25 November 1997. A copy of the international application was communicated to the USPTO from the International Bureau on 03 June 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 07 May 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 May 2000.

On 25 May 2000, applicants filed national stage papers with the United States Designated/Elected Office (DO/EO/US) under 35 U.S.C. 371 including, inter alia, the requisite basic national fee.

On 28 June 2000, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/US/905) indicating that an oath or declaration under 37 CFR 1.497 must be filed along with a surcharge for providing the oath or declaration later than thirty months from the priority date.

On 28 July 2000, applicants filed a declaration signed by all of the inventors except Etienne Agsteribbe, who according to the declaration is deceased. The papers filed on 28 July 2000 were treated as a request for status under 37 CFR 1.42.

On 01 December 2000, the PCT Legal Office of the USPTO dismissed the 28 July 2000 request for status on grounds that the 28 July 2000 declaration is not executed by the legal representative of the deceased inventor and because the declaration does not identify the citizenship of the inventors.

On 13 December 2000, applicants filed the present renewed request for status including a declaration signed by Irene Agsteribbe-Servaas, who according to the declaration is the executor of the deceased inventor.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

The declaration filed 13 December 2000 is in compliance with 37 CFR 1.42.

CONCLUSION

For the reasons above, the papers filed 13 December 2000 are ACCEPTED under 37 CFR 1.42.

The application has an international filing date of 24 November 1998 and a date under 35 U.S.C. 371(c) of 13 December 2000.

This application is being forwarded to the DO/EO/US for further processing in accordance with this decision.



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